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December 18, 2009

VIA ECF

Honorable Ramon E. Reyes, Jr.
United States Magistrate Judge
United States District Court,
Eastern District of New York
Brooklyn Courthouse
225 Cadman Plaza East
Brooklyn, New York 11201

**Re: Queens Borough Public Library v. Dynix Corp., et al. (E.D.N.Y.)
09-CIV-2860 (ILG)(RER)
Electronically Stored Information Status Report**

Dear Judge Reyes:

As you are aware, this firm represents Defendants Dynix Corporation and Sirsi Corporation in the referenced action. Thompson Hine LLP represents Plaintiff Queens Borough Public Library and that firm has reviewed and approved the contents of the instant Electronically Stored Information ("ESI") Status Report. This ESI Status Report is provided pursuant to Your Honor's directive at the initial court conference held on November 2, 2009.

The parties have agreed to the following regarding production of ESI:

Format. ESI shall be produced to the requesting party as image files in searchable TIFF format, unless the parties agree otherwise. Following production of the TIFF files, the producing party shall preserve the integrity of the electronic documents contents, i.e., the original formatting of the document, its metadata and, where applicable, its revision history. It is Defendants' position that ESI in its native format should be produced only upon a showing of

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particularized need. It is Plaintiff's position that ESI in its native format should be produced upon any specific request of either party.

Retention. The parties shall continue to preserve the integrity of all relevant ESI during the pendency of the action. Neither party shall be deemed to have waived any rights with respect to document retention issues. In addition, the parties are continuing their investigation to determine the scope of accessible and inaccessible documents.

Privilege. Consistent with Federal Rule of Civil Procedure ("FRCP") Rule 26(b)(5)(B), the parties have agreed that ESI containing privileged information or attorney work product ("Protected Documents") shall be immediately returned if the documents appear to the receiving party to have been inadvertently produced or if the producing party provides notice of their inadvertent production. All media containing Protected Documents shall be returned by the receiving party. If the media returned to the producing party contains non-Protected Documents, said documents shall be re-produced within ten days following receipt of the returned media.

Timing of Production. After receiving a request for document production, the parties shall, subject to any objections that have been raised and any resolution thereof, search their documents and produce responsive ESI in accordance with the FRCP or as otherwise agreed.

Search Methodology. Upon receipt of a request for document production, the producing party shall conduct a search of its hard copy files and ESI which shall include, at a minimum, a search of the ESI files of one or more individuals likely to have discoverable information as previously set forth in the parties' Initial Disclosures. Such requests for document production may include a provision requiring agreement as to methods of searching ESI and the words, terms and phrases to be searched. The failure to locate responsive documents in the files of said individuals shall not relieve the parties from the obligation to conduct reasonably diligent further searches to find responsive documents.

If a party wishes another party to conduct a specific electronic search to locate relevant ESI, it shall so request in writing and the parties shall reach agreement as to the method of searching, and the words, terms, and phrases to be searched. The parties also shall attempt in good faith to reach agreement as to the timing and conditions of any additional searches which may become necessary during discovery. To minimize expense, the parties should consider limiting the scope of the electronic search (e.g., time frames, fields, document types).

Search Terms. The parties intend to meet and confer and exchange initial words, terms and phrases to be searched on or before January 15, 2010.

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Costs. Each producing party shall bear its own costs of preserving, restoring and producing all ESI.

The parties will confer as additional issues arise and make a good faith effort to resolve disputes.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Jeffrey P. Rosenstein". The signature is fluid and cursive, with the first name "Jeffrey" being more prominent.

Jeffrey P. Rosenstein

cc: Rebecca A. Brazzano, Esq. (via email)
Thompson Hine LLP